

REMARKS

Claims 1, 5-8, 13, 14, 16, 17, 19, 20 and 22-25 have been examined and rejected.

Claim 26 was previously withdrawn.

Claims 2-4, 9-12, 15, 18 and 21 were previously cancelled.

Claims 5, 6, 16 and 17 have been cancelled herein.

Claim 21 has been reinstated herein and is also amended herein.

Claims 1, 7, 13, and 19-25 have been amended herein.

This Amendment has been prepared in accordance with the revised format as described on the Internet website of the United States Patent and Trademark Office pertaining to anticipated revisions of 37 C.F.R. 1.121.

Reconsideration and allowance of the claims, as amended, is respectfully requested.

Record of Interview

Applicant thanks the Examiner for granting a personal interview, which was conducted on April 15, 2003. During the interview, applicants' attorney discussed the basic nature of the present invention with the Examiner, most particularly, as exemplified in Figure 2 and Figures 16 and 17. Applicants' attorney pointed out how a vacuum controller of the present invention distributes vacuum from a common vacuum source in prioritized fashion between a first receptacle which drains a body cavity in which surgery is being performed and a second receptacle (non-priority) draining the drape which collects waste surgical fluid. The applicants' attorney proposed to amend

Claim 1 substantially as shown in the attached amendment to Claim 1 herein and to make Claim 13 dependent upon the amended Claim 1. Based upon the proposed amendments to Claim 1, which were described verbally, the Examiner was thought to be of the opinion that Claim 1 with the proposed amendments would distinguish over the prior art of record. The Examiner agreed to review the proposed amended claims pursuant to filing an RCE application and indicated that she may conduct an additional search.

### **Basis of Rejection**

In the last Office Action dated December 31, 2002, the Examiner rejected Claims 1 and 21-25 under 35 U.S.C. 102(e) as anticipated by Takamatsu et al. The Examiner rejected Claims 5-8 and 13-14, 16-17 and 19-20 under 35 U.S.C. 103(a) as unpatentable over Takamatsu et al. and further in view of Sundblom et al. and Jiang.

### **Response To Rejection**

Applicant has amended Claim 1 to distinguish over the references of record. More particularly, Claim 1 now specifies first and second conduits leading to first and second receptacles, respectively, a valve having two positions interposed between the first receptacle and a vacuum source and between the second receptacle and the vacuum source. (With reference to FIGS. 16 and 17, FIG. 17 depicts the "first position" and FIG. 16, "the second position".) A microprocessor alternatingly switches the valve between the first position connecting the first receptacle to the vacuum source and a second position connecting the second receptacle to the vacuum source. In this

manner, the vacuum is shared between the first receptacle and the second receptacle by switching the valve between the first and second positions. An algorithm executed in the microprocessor of the vacuum controller favors the acquisition of a setpoint vacuum level in the first receptacle over that in the second receptacle. The purpose of this is to assure that the vacuum receptacle system draining the surgical cavity is given priority and a proper vacuum level is maintained in the cavity such that the cavity does not become overcharged or undercharged with insufflating surgical fluid. At the same time, the system provides adequate vacuum on a non-priority basis to the surgical drape, thereby avoiding the spillage of waste surgical fluid. Applicant respectfully submits that none of the references of record disclose the foregoing features and therefore Claim 1 should be patentable thereover.

All the remaining claims are dependent from Claim 1 and also include additional unique features. For example, Claim 13 introduces a vacuum sensor for sensing the vacuum level approximating that in the first receptacle (which leads to the surgical cavity) and a timer for measuring the time that the valve is maintained in the first position and in the second position, respectively. This duration of the valve remaining in the first and second positions, respectively, allows the vacuum controller to maintain the pre-selected vacuum setpoint by adjusting the time of exposure up or down as required to achieve the vacuum setpoint. Claim 13 also describes the valve more specifically, indicating that it has four ports and indicating the various connections of the ports of the valve to the vacuum source, the first receptacle and the second receptacle. Claim 13 specifies the connectivity established by the valve when it is in the first and second positions, respectively. Applicant respectfully submits that the foregoing

additional features of Claim 13 are not shown in the prior art of record and therefore Claim 13 should be allowable. The remainder of the claims should be allowable based upon their dependency upon Claim 1 and also because they recite additional unique features.

Applicants' attorney once again wishes to thank the Examiner for her courtesy in granting and conducting the interview and believes that the interview was fruitful in giving direction to the present application. In view of the foregoing amendments and arguments, reexamination and allowance of Claims 1, 7, 8, 13, 14 and 19-25 are respectfully requested.

The \$110 extension fee due in connection with the filing of this Amendment within one month after expiration of the due date set forth in the final Office Action is covered by a charge authorization contained in the Request for Continued Examination and filed concurrently herewith. The \$750 fee that is due in connection with the submission of the Request for Continued Examination is also covered by a charge authorization contained in the Request for Continued Examination. No additional fees are believed to be due in connection with the submission of this Amendment. If, however, any such fees are due, including extension or petition fees, the Examiner is hereby authorized to charge them to Deposit Account 19-1218.

Respectfully submitted,

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additional features of Claim 13 are not shown in the prior art of record and therefore Claim 13 should be allowable. The remainder of the claims should be allowable based upon their dependency upon Claim 1 and also because they recite additional unique features.

Applicants' attorney once again wishes to thank the Examiner for her courtesy in granting and conducting the interview and believes that the interview was fruitful in giving direction to the present application. In view of the foregoing amendments and arguments, reexamination and allowance of Claims 1, 7, 8, 13, 14 and 19-25 are respectfully requested.

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